

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

**MIREYA VALENZUELA, as Next Friend of  
Z.E. and A.E.**

**Plaintiff,**

**vs.**

**TRAVIS OSTERMAN and  
CITY OF WEBB CITY,**

**Defendants.**

**Case No.: 3:24-cv-05075-MDH**

**ORDER**

Before the Court are Defendant's Motion to Dismiss for failure to state a claim (Doc. 7) and Plaintiff's Motion for Leave to File Amended Complaint (Doc. 12). Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, the court should freely grant leave to amend a pleading when justice so requires. "[T]he court has broad discretion and will only deny leave to amend in order to avoid undue delay, where there has been bad faith on the part of the plaintiff, when amendment would be futile or when amendment would result in unfair prejudice to the defendants." *Murphy v. Engelhardt*, 2017 WL 11461047 at \*1 (W.D. Mo. 2017) (citations omitted).

Plaintiff's request comes more than 21 days since Defendants filed a pleading in response to Plaintiff's complaint, necessitating leave of the Court for Plaintiff to amend her pleadings. Plaintiff seeks to cure any requirements that may not have met the strict requirements of federal court pleadings in cases pursuant to 42 U.S.C. § 1983. Plaintiff argues that to best address Defendant's allegations of defects in the pleadings is to file an amended complaint that seeks to alleviate the complaints raised by Defendants. Plaintiff asserts that since discovery has not yet commenced, Defendants will not be unduly prejudiced by Plaintiff filing an amended complaint.

Defendants has not responded to Plaintiff's Motion for Leave to File Amended Complaint and the time to do so has elapsed.

The Court finds no undue delay, bad faith, futility, or unfair prejudice to the Defendants if leave were granted. Further, the Court finds that justice so requires granting leave in this case. Therefore, Plaintiff's Motion for Leave to File an Amended Complaint is **GRANTED**. Plaintiff will have 10 days from this order to file with the Court an Amended Complaint. Defendant's Motion to Dismiss for Failure to State a Claim is hereby **FOUND AS MOOT**.

**IT IS SO ORDERED.**

Date: October 29, 2024

/s/ Douglas Harpool  
**DOUGLAS HARPOOL**  
**UNITED STATES DISTRICT JUDGE**